



Paper 26

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**OFFICE OF PETITIONS
ON PETITION**

In re Application of :
Karatzas, et al. :
Application No. 09/040,518 :
Filed: 17 March, 1998 :
Attorney Docket No.: 06643/011001 :

This is a decision on the petition filed on 18 April, 2002, under under 37 C.F.R. §1.137(b)¹ to revive the above-identified application.

The Office regrets the delay in addressing this matter.

The petition is **GRANTED**.

BACKGROUND

The record indicates that:

- the instant application went abandoned for failure to reply timely and properly to a final Office action mailed on 18 July, 2001, with response due absent an extension of time on or before 18 October, 2001;
- on 17 January, 2002, Petitioner filed via FAX a request and fee for a three- (3-) month extension of time and an amendment, which was not a proper reply and was not entered;²
- the instant application went abandoned after midnight 18 January, 2001;

¹ Effective December 1, 1997, the provisions of 37 C.F.R. §1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 C.F.R. §1.137(b). a grantable petition filed under the provisions of 37 C.F.R. §1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

(2) the petition fee as set forth in 37 C.F.R. §1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 C.F.R. §1.137(b) was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee set forth in 37 C.F.R. §1.20(d)) required pursuant to 37 C.F.R. §1.137(c). (Emphasis supplied.)

² The proper response to the final Office action (see: Fn. 1, item (1); MPEP 711.03(c)) must be in the form of: (a) an amendment *prima facie* placing the application in condition for allowance; (b) a Notice of Appeal; or (c) a request for continued examination (RCE) under 37 C.F.R. §1.114 or a continuing application.

- Notice of Abandonment was mailed (with an Advisory Action) on 29 January, 2002;
- the instant petition to revive (with fee) was filed on 18 April, 2002, accompanied by a request for continued examination (RCE), submission and fee (*in globo*, the reply) and the statement of unintentional delay by Counsel.

The instant application is being forwarded to Technology Center 1600 for further processing.

Telephone inquiries regarding this decision may be directed to the undersigned at (703) 305-9199.



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